

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

TIMOTHY E. McCRARY,)	
)	
Plaintiff,)	
)	
vs.)	NO. CIV-20-221-HE
)	
MIKE McDOUGAL, et al.,)	
)	
Defendants.)	

ORDER

Plaintiff Timothy E. McCrary, proceeding *pro se*, brought this action under 42 U.S.C. § 1983. On May 15, 2020, United States Magistrate Judge Gary M. Purcell issued a Supplemental Report and Recommendation recommending that plaintiff's due process claim (Claim One) based upon the Joseph Harp Correctional Center's ("JHCC") grievance process be dismissed for failure to state a claim and that defendants Georgia Correctional Industries Department ("GCID"), Cheri Atkinson, and Carl Bear be dismissed for failure to allege personal participation. The Magistrate Judge further recommended that plaintiff's First Amendment claim and Eighth Amendment claim asserted against defendants Mike McDougal and James Robberson should proceed. Plaintiff has filed an objection to the Supplemental Report and Recommendation which triggers *de novo* review.

In the supplemental report, Judge Purcell concluded that plaintiff has not set forth a constitutional violation based on the administration of JHCC's grievance process. Plaintiff objects to the dismissal of this claim. "Prison grievance procedures do not give rise to a protected liberty interest requiring the procedural protections envisioned by the fourteenth


amendment.” Murray v. Albany Cty. Bd. of Cty. Comm’rs, No. 99-8025, 2000 WL 472842, at *2 (10th Cir. April 20, 2000) (internal quotations and citation omitted). Dismissal of plaintiff’s due process claim is therefore appropriate.

Judge Purcell also properly concluded that defendants GCID, Atkinson, and Bear should be dismissed. Plaintiff has not alleged that these defendants personally participated in any of the actions or events underlying his claims.

Accordingly, the Report and Recommendation [Doc. #13] is **ADOPTED**. Plaintiff’s due process claim (Claim One) is **DISMISSED** for failure to state a claim, and defendants GCID, Atkinson, and Bear are **DISMISSED** for failure to allege personal participation.

IT IS SO ORDERED.

Dated this 10th day of June, 2020.



JOE HEATON
UNITED STATES DISTRICT JUDGE